

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EARNEST HENDERSON,

Plaintiff,

v.

DEPUTY GLENN YOUNG, DEPUTY
MIGUEL PRADO, DEPUTY LARRY
NAPATA.

Defendants.

Case No.C05-0234 VRW/WAF

**ORDER REVISING JURY
INSTRUCTIONS**

(EARNEST HENDERSON
TRIAL)

Trial Judge: William A. Fletcher
Trial Date: Feb. 12, 2008

The Court attaches the jury instructions that will be given at the conclusion of the liability phase of trial. If the jury returns a verdict against one or more of the defendants at the conclusion of the liability phase, the court will conduct a short trial on the issue of punitive damages. Instructions for the punitive damage phase of the trial are not included in this order, but counsel may anticipate the punitive damage instructions that were given at the end of the first trial will be given without substantial change. The final version of the punitive damage instructions will be determined at a later time.

The court alerts counsel that the attached jury instructions reflect the following changes to the instructions used during the previous trial:

Instruction 14: Changed to eliminate alternate definition of “unnecessarily and wonton” based on the absence of any penological justification, and to add as a factor to be considered by the jury whether the force was applied in a good faith effort to maintain or restore discipline.

Instruction 21: Changed to eliminate reference to punitive damages.

Instruction 22: Eliminated.

Instruction 26: Eliminated.

Instruction 27: Eliminated.

Instruction 28: Eliminated.

Instruction 29: Eliminated .

IT IS SO ORDERED

Dated: February 6, 2008

By: William A. Fletcher
The Honorable William A. Fletcher
United States Circuit Judge for the
Court of Appeals of the Ninth Circuit,
sitting by designation